

**Introduced by Senator Karnette**

February 21, 2002

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An act to amend ~~Section~~ *Sections 1747.02 and 1747.05* of the Civil Code, relating to credit cards.

LEGISLATIVE COUNSEL'S DIGEST

SB 1617, as amended, Karnette. Credit cards.

*Existing law defines accepted credit card to include a credit card issued in renewal of, or in substitution for, an accepted credit card that has been received by the cardholder; whether the credit card is issued by the same or a successor card issuer. Existing law provides for the issuance of credit cards, as specified.*

*This bill would delete the provision authorizing the issuance of a credit card as a substitution for an accepted credit card from the definition of accepted credit card a credit card issued in substitution for an accepted credit card. The bill would also delete from the definition of an accepted credit card a card issued in renewal of an accepted credit card irregardless of whether the credit card is issued by the same or a successor card issuer. The bill would further delete the general authorization to issue a credit card in these ways. The bill would permit a credit card to be issued as a replacement to an existing card, when the replacement results from a merger, acquisition, or portfolio sale by the existing card issuer. The bill would also permit a credit card to be issued in substitution for an accepted credit card only if the card issuer provides written notification to the credit card holder that a substitute card is available and the cardholder contacts the issuer by telephone or mail to specifically request that a substitute card be sent.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. *Section 1747.02 of the Civil Code is amended to*  
2 *read:*  
3     1747.02. As used in this title:  
4     (a) “Credit card” means any card, plate, coupon book, or other  
5 single credit device existing for the purpose of being used from  
6 time to time upon presentation to obtain money, property, labor, or  
7 services on credit. “Credit card” does not mean any of the  
8 following:  
9     (1) Any single credit device used to obtain telephone property,  
10 labor, or services in any transaction under public utility tariffs.  
11     (2) Any device that may be used to obtain credit pursuant to an  
12 electronic fund transfer, but only if the credit is obtained under an  
13 agreement between a consumer and a financial institution to  
14 extend credit when the consumer’s asset account is overdrawn or  
15 to maintain a specified minimum balance in the consumer’s asset  
16 account.  
17     (3) Any key or card key used at an automated dispensing outlet  
18 to obtain or purchase petroleum products, as defined in  
19 subdivision (c) of Section 13401 of the Business and Professions  
20 Code, that will be used primarily for business rather than personal  
21 or family purposes.  
22     (b) “Accepted credit card” means any credit card that the  
23 cardholder has requested or applied for and received or has signed,  
24 or has used, or has authorized another person to use, for the  
25 purpose of obtaining money, property, labor, or services on credit.  
26 Any credit card issued in renewal of, ~~or in substitution for,~~ an  
27 accepted credit card becomes an accepted credit card when  
28 received by the cardholder, ~~whether the credit card is issued by the~~  
29 ~~same or a successor card issuer.~~  
30     (c) “Card issuer” means any person who issues a credit card or  
31 the agent of that person for that purpose with respect to the credit  
32 card.  
33     (d) “Cardholder” means a natural person to whom a credit card  
34 is issued for consumer credit purposes, or a natural person who has  
35 agreed with the card issuer to pay consumer credit obligations

1 arising from the issuance of a credit card to another natural person.  
2 For purposes of Sections 1747.05, 1747.10, and 1747.20, the term  
3 includes any person to whom a credit card is issued for any  
4 purpose, including business, commercial, or agricultural use, or a  
5 person who has agreed with the card issuer to pay obligations  
6 arising from the issuance of that credit card to another person.

7 (e) “Retailer” means every person other than a card issuer who  
8 furnishes money, goods, services, or anything else of value upon  
9 presentation of a credit card by a cardholder. “Retailer” shall not  
10 mean the state, a county, city, city and county, or any other public  
11 agency.

12 (f) “Unauthorized use” means the use of a credit card by a  
13 person, other than the cardholder, (1) who does not have actual,  
14 implied, or apparent authority for that use and (2) from which the  
15 cardholder receives no benefit. “Unauthorized use” does not  
16 include the use of a credit card by a person who has been given  
17 authority by the cardholder to use the credit card. Any attempted  
18 termination by the cardholder of the person’s authority is  
19 ineffective as against the card issuer until the cardholder complies  
20 with the procedures required by the card issuer to terminate that  
21 authority. Notwithstanding the above, following the card issuer’s  
22 receipt of oral or written notice from a cardholder indicating that  
23 it wishes to terminate the authority of a previously authorized user  
24 of a credit card, the card issuer shall follow its usual procedures for  
25 precluding any further use of a credit card by an unauthorized  
26 person.

27 (g) An “inquiry” is a writing that is posted by mail to the  
28 address of the card issuer to which payments are normally  
29 tendered, unless another address is specifically indicated on the  
30 statement for that purpose, then to that other address, and that is  
31 received by the card issuer no later than 60 days after the card  
32 issuer transmitted the first periodic statement that reflects the  
33 alleged billing error, and that does all of the following:

34 (1) Sets forth sufficient information to enable the card issuer to  
35 identify the cardholder and the account.

36 (2) Sufficiently identifies the billing error.

37 (3) Sets forth information providing the basis for the  
38 cardholder’s belief that the billing error exists.

(h) A “response” is a writing that is responsive to an inquiry and mailed to the cardholder’s address last known to the card issuer.

(i) A “timely response” is a response that is mailed within two complete billing cycles, but in no event later than 90 days, after the card issuer receives an inquiry.

(j) A “billing error” means an error by omission or commission in (1) posting any debit or credit, or (2) in computation or similar error of an accounting nature contained in a statement given to the cardholder by the card issuer. A “billing error” does not mean any dispute with respect to value, quality, or quantity of goods, services, or other benefit obtained through use of a credit card.

(k) “Adequate notice” means a printed notice to a cardholder that sets forth the pertinent facts clearly and conspicuously so that a person against whom it is to operate could reasonably be expected to have noticed it and understood its meaning.

(l) “Secured credit card” means any credit card issued under an agreement or other instrument that pledges, hypothecates, or places a lien on real property or money or other personal property to secure the cardholder’s obligations to the card issuer.

(m) “Student credit card” means any credit card that is provided to a student at a public or private college or university and is provided to that student solely based on his or her enrollment in a public or private university, or is provided to a student who would not otherwise qualify for that credit card on the basis of his or her income. A “student credit card” does not include a credit card issued to a student who has a cocardholder or cosigner who would otherwise qualify for a credit card other than a student credit card.

SEC. 2. Section 1747.05 of the Civil Code is amended to read:

1747.05. ~~No~~ (a) A credit card ~~shall~~ may not be issued except as follows:

~~(a)~~

(1) In response to an oral or written request or application.

~~(b)~~

(2) As a renewal of an accepted credit card issued by the same ~~or a successor~~ card issuer.

(3) *As a replacement to an existing credit card when the replacement results from a merger, acquisition, or portfolio sale by the existing credit card issuer.*

1     *(b) Notwithstanding subdivision (a), a credit card issuer may*  
2     *issue a credit card in substitution for an accepted credit card, only*  
3     *if both of the following are satisfied:*

4         *(1) The credit card issuer provides written notification to the*  
5         *credit card holder that a substitute card is available.*

6         *(2) The credit card holder contacts the credit card issuer by*  
7         *telephone or mail to specifically request that the substitute card be*  
8         *sent.*

